

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION**

**Case No. 9:24-cv-80713-RLR**

SCOTT L. and ELENA SHLEIFER,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

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**UNITED STATES OF AMERICA'S ANSWER**

The United States of America answers the numbered paragraphs of Plaintiffs' Complaint as follows. Any allegation not specifically admitted is denied. *See* Fed. R. Civ. P. 8(b)(3).

**PARTIES**

1. The United States admits that Plaintiffs are a married couple but lacks knowledge or information sufficient to form a belief about where Plaintiffs currently reside.
2. The United States admits the allegations in paragraph 2.

**JURISDICTION AND VENUE**

3. The United States admits the allegations in paragraph 3.
4. The United States lacks knowledge or information sufficient to form a belief about where Plaintiffs currently reside but admits that venue is proper in this judicial district.
5. The United States lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 5.

## **FACTUAL AND PROCEDURAL BACKGROUND**

6. The United States denies the allegations in paragraph 6.

7. The United States lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 7.

8. The United States lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 8.

9. The United States lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 9.

10. The United States lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10.

11. The United States lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 11.

12. The United States admits the allegations in paragraph 12.

13. The United States admits the allegations in paragraph 13.

14. The United States admits the allegations in paragraph 14.

15. The United States admits that on or around October 9, 2018, Plaintiffs filed a Form 1040X Amended U.S. Individual Income Tax Return for tax year 2014 which reported a tax liability \$1,898,786 less than the liability reported on Plaintiffs' original Form 1040 but denies all other allegations in paragraph 15 that are not expressly admitted.

16. The United States admits that Plaintiffs reported a reduced tax liability on their Form 1040X in connection with a deduction Plaintiffs claimed for the Aircraft but denies all other allegations in paragraph 16 that are not expressly admitted.

17. The United States admits that the IRS opened an examination of Plaintiffs' Form 1040X for tax year 2014 but denies that it was initiated on or about April 5, 2019.

18. The United States admits the allegations in paragraph 18.

19. The United States denies the characterization that Exhibit A to the Complaint is a "Revenue Agent's Report" but admits that the Schedule C Depreciation Expense Lead Sheet enclosed with the examining agent's March 23, 2022 letter contained the statement that: "Deduction of Depreciation and operating expenses of the airplane may be deductible as expenses related to partnership investment on Sch E, much the same as they have been deducted in 2015 and subsequent tax years." The United States admits that Exhibit A to the Complaint is a true and correct copy of the Schedule C Depreciation Expense Lead Sheet enclosed with the examining agent's March 23, 2022 letter.

20. The United States admits the allegations in paragraph 20.

21. The United States admits the allegations in paragraph 21.

#### **COUNT I – REFUND OF INCOME TAX OVERPAYMENT**

22. The United States incorporates by reference its answers to ¶¶ 1 through 21.

23. The United States denies the allegations in paragraph 23.

24. The United States admits that Plaintiffs have exhausted their administrative remedies and that on July 6, 2022, the IRS issued Plaintiffs a statutory notice of disallowance denying their claim for refund for tax year 2014 but denies that Plaintiffs made an overpayment of income tax for tax year 2014.

25. The United States denies the allegations in paragraph 25.

**DEFENSE**

Because a refund suit “involves a redetermination of the entire tax liability,” the United States may offset unassessed liabilities against any tax overpayment determined in this proceeding. *See Lewis v. Reynolds*, 284 U.S. 281, 283 (1932).

**PRAYER**

Wherefore, the United States requests that the Court deny the relief requested in Plaintiffs’ Complaint and grant the United States’ costs in defending against this action, and any other relief that the Court deems just and proper.

Dated: September 10, 2024

Respectfully submitted,

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